

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

McKlein Company, LLC,)	
)	Civil Action No. 08 CV 1491
Plaintiff/Counterclaim Defendant,)	
)	U.S. District Judge David H. Coar
v.)	
)	Magistrate Judge Jeffrey Cole
Monarch Designs, Inc.)	
)	
and)	
)	
Monarch Luggage Co., Inc.,)	
)	
Defendants/Counterclaim Plaintiffs.)	Jury Trial Demanded

McKLEIN COMPANY, LLC'S ANSWER TO COUNTERCLAIMS

Plaintiff/Counterclaim Defendant McKlein Company, LLC, by and through its attorneys, answers the Counterclaims of Monarch Designs, Inc. and Monarch Luggage Co., Inc. as follows:

THE PARTIES

1. Counterclaim-Plaintiffs Monarch Designs, Inc. and Monarch Luggage Co., Inc. ("Counterclaim-Plaintiffs") are corporations formed and existing under the laws of Delaware and having a principal place of business at 8388 E. Hartford Drive, Suite 102, Scottsdale, Arizona 85255.

ANSWER: Admit.

2. Counterclaim-Defendant McKlein Company, LLC (hereinafter “McKlein”) is a limited liability company formed and existing under the laws of Illinois, with a principal place of business located at 5421A W. Roosevelt Road, Chicago, Illinois 60644.

ANSWER: Admit.

Counterclaim Count I – Declaration of Non-Infringement
of the ‘334 and ‘193 Patents

3. Counterclaim-Plaintiffs bring this counterclaim against McKlein for a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, for the purpose of determining a question of actual controversy among the parties, namely, whether the Counterclaim-Plaintiffs infringe United States Patent No. 6,595,334 (“the ‘334 Patent”) and United State Patent No. 6,994,193 (“the ‘193 Patent”).

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC is without sufficient information to either admit or deny the allegations contained in this paragraph of the counterclaim, and therefore denies the same and demands strict proof thereof.

4. This counterclaim arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. The court has jurisdiction of this cause under 28 U.S.C. 1331 and 1338(a), and venue is proper under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC admits that jurisdiction and venue are appropriate in this Court, and denies the remaining allegations of this paragraph of the counterclaim, and demands strict proof thereof.

5. True and accurate copies of the '334 and '193 Patents are attached hereto as **Exhibits A and B**.

ANSWER: Admit.

6. An actual justiciable controversy exists among McKlein and Counterclaim-Plaintiffs concerning infringement of the '334 and '193 Patents as set forth in the Complaint filed by McKlein and in the Answer to which this counterclaim is appended.

ANSWER: Admit.

7. On information and belief, McKlein claims to be the lawful owner, by assignment, of the entire right, title, and interest in and to the '334 and '193 Patents, including the right to sue and to recover damages for infringement of the '334 and '193 Patents.

ANSWER: Admit.

8. Counterclaim-Plaintiffs have not made, used, sold, offered for sale, or imported, and are not making, using, selling, offering for sale, or importing any device or apparatus that incorporates, either literally or under the doctrine of equivalents, all of the limitations of any of the claims of the '334 and '193 Patents and, consequently, have not infringed and do not infringe, such claims.

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC denies the allegations contained in this paragraph of the counterclaim, and demands strict proof thereof.

9. Counterclaim-Plaintiffs have not infringed, and have neither induced infringement, nor contributed to infringement by others, of the '334 and '193 Patents.

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC denies the allegations contained in this paragraph of the counterclaim, and demands strict proof thereof.

Counterclaim Count II – Declaration of Invalidity of the '334 and '193 Patents

10. Counterclaim-Plaintiffs re-allege paragraphs 1-9 of Defendants' Counterclaim as paragraphs 1-9, inclusive, of this Count as if set forth herein verbatim.

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC hereby incorporates its answers to paragraphs 1 – 9 as if fully set forth herein.

11. One or more of the claims of the '334 and '193 Patents are invalid under 35 U.S.C. §§101, 102 and/or 103.

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC denies the allegations contained in this paragraph of the counterclaim, and demands strict proof thereof.

12. The '334 and '193 Patents fail to adhere to the requirements of 35 U.S.C. §112, first and second paragraphs. Consequently, all of the claims of the '334 and '193 Patents are invalid.

ANSWER: Plaintiff/Counterclaim Defendant McKlein Company, LLC denies the allegations contained in this paragraph of the counterclaim, and demands strict proof thereof.

JURY DEMAND

Plaintiff/Counterclaim Defendant McKlein Company, LLC hereby demands a trial by jury for all matters in the Complaint.

WHEREFORE, Plaintiff/Counterclaim Defendant McKlein Company, LLC prays that these Counterclaims be dismissed with prejudice, for judgment against Defendants/Counterclaim Plaintiffs Monarch Designs, Inc. and Monarch Luggage Co., Inc., for an award of costs and reasonable attorneys fees along with such other and further relief as this Court deems appropriate.

Dated: August 28, 2008

Respectfully Submitted, on behalf of
Plaintiff McKlein Company, LLC

By: /s/Vladimir I. Arezina
Vladimir I. Arezina,
One of Its Attorneys

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CERTIFICATE OF SERVICE

Vladimir I. Arezina, an attorney, certifies that on Thursday, August 28, 2008, he caused the foregoing **McKLEIN COMPANY, LLC'S ANSWER TO COUNTERCLAIMS** to be filed electronically, and to be served on the following persons by the Court's electronic filing system to all ECF registered parties indicated on the electronic filing receipt, and by U.S. Mail postage prepaid:

Richard L. Rubin, President/CEO
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